

Appn. No. 10/671,347
Docket No. 132104 (GEN-0379)

REMARKS / ARGUMENTS

Status of Claims

Claims 1-11 are pending in the application. Claims 1-4 and 9-11 are allowed. Claim 5 is rejected. Claims 6-8 are objected to as being dependent upon a rejected claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's comments regarding the allowability of the noted claims. Of the pending claims, Applicant herein provides clarifying remarks, for consideration by the Examiner, to traverse the rejections. No claim amendments have been made, and therefore under 37 CFR 1.121, no claim listing is provided herewith.

Applicant respectfully submits that the rejections under 35 U.S.C. §102(b) have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §102(b)

Claim 5 stands rejected under 35 U.S.C. §102(b) as being anticipated by Raso et al. (U.S. Patent No. 4,939,492, hereinafter Raso).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the *** claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference.

Appln. No. 10/671,347
Docket No. 132104 (GEN-0379)

Titanium Metals Corp. v. Banner, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

The Examiner alleges that Raso discloses each and every element of the claimed invention including “means [52, column 3, lines 2-20] for adjusting the trip force in the absence of adjustment to the air gap; and means [54] for adjusting the air gap in the absence of adjustment to the trip force.” Paper 081804, page 2. While the Examiner references element [52] for the “first means” and element [54] for the “second means”, Applicant understands this reference to be reversed, since Raso discloses adjusting screw [54] for modifying a return force, col. 3, lines 40-41, and discloses an adjusting wedge [52] for adjusting an air gap by adjusting the position of movable core [20], col. 3, lines 2-20.

In view of Applicant’s understanding, Applicant respectfully disagrees with the Examiner.

Claim 5 recites, inter alia, “...means for adjusting the air gap *in the absence of adjustment to the trip force.*” (Emphasis added). Here, Applicant claims a trip system having an air gap that can be adjusted *without adjusting the trip force.*

In contradiction with the claimed invention, Applicant finds Raso to disclose a wedge 52 that moves to rotate rocker 50 that moves to rotate lever 28 about pivot 30 that moves to raise and lower movable core 20, thereby adjusting an air gap. Col. 3, lines 2-20. However, as lever 28 pivots about pivot 30, so does the fixing point 38 that return spring 36 is attached to, which necessarily changes the line of force of return spring 36 relative to pivot 30, thereby changing the trip force.

At column 3, lines 39-42, Raso discloses that the “fixing point 40 of the spring 36 can be moved by an adjusting screw 54 to adjust the line of action of the return spring 36, and thus modify the return force exerted on the movable core 20.” As such, Applicant respectfully submits that if movement of fixing point 40 changes the line of action and resulting trip force, then it follows that changing the fixing point 38 will also change the line of action and resulting trip force, which is contrary to the claimed invention.

Appln. No. 10/671,347
Docket No. 132104 (GEN-0379)

Accordingly, Applicant submits that Raso fails to disclose a means for adjusting the air gap *in the absence of adjustment to the trip force*, as claimed in the instant invention.

Dependent claims inherit all of the limitations of the parent claim.

Absent anticipatory disclosure in Raso of each and every element of the claimed invention, Raso cannot be anticipatory.

In view of the foregoing remarks, Applicant submits that Raso does not disclose each and every element of the claimed invention and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. §102(b) has been traversed, and requests that the Examiner reconsider and withdraw this rejection.

Appln. No. 10/671,347
Docket No. 132104 (GEN-0379)

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above identified Deposit Account.

Respectfully submitted,

CANTOR COLBURN LLP

Applicant's Attorneys

By: 

David Arnold
Registration No: 48,894
Customer No. 23413

Address: 55 Griffin Road South, Bloomfield, Connecticut 06002
Telephone: (860) 286-2929
Fax: (860) 286-0115